

## Texas Auctioneers Association – Open Letter – Part 3 of 3

Date: May 1, 2015

To: Texas Auctioneers Association  
201 Stillwater, Ste. 8  
Wimberley, TX 78676

From: Charlie Dean, TAA member, Texas resident

Re: **TAA Code of Ethics**

This is the third and last in a three-part series of an open letter to the Texas Auctioneers Association (TAA). I belong to TAA for similar reasons as many other Auctioneers. I want the TAA News, and I want to learn from other Auctioneers. I have learned from sponsors, exhibitors, and the guest speakers. I have attended two TAA conventions. As I review our Code of Ethics, I am disturbed.

**Article 1.** In the best interest of the public, of his fellow auctioneers and his own business, the Auctioneer should be loyal to the Texas Auctioneers Association.

**The Texas Auctioneers Association and its lobbyist have taken positions against the best interest of the public. Unfair trade practices might (arguably) be in the best interest of the TAA, some Auctioneers, and some businesses. However, this is not in the public's best interest, and I suggest it is not in the TAA's best interest.**

**Article 5.** In the best interest of society, of his associates, and of his own business, the Auctioneer should at all times be loyal to the Texas Auctioneers Association and active in its work; and he should willingly share with his fellow-members the lessons of his experience.

**I believe I am being loyal to the TAA, as I believe honesty is the best practice here, and I believe that in the long run this is in the best interest of the TAA.**

**Article 6.** In justice to those who place their interests in his hands, the Auctioneer should endeavor to keep abreast of business conditions, to keep informed in matters of law and proposed legislation affecting such interests, so as to give intelligent business advice and effective service.

**The TAA, its PAC, and its lobbyist have kept themselves informed of proposed legislation affecting the interests of some Auctioneers. However, TAA, its PAC, and its lobbyist have not kept themselves informed adequately in matters of law. The result has been that the interests of Texas Auctioneers overall have not been improved by burdensome regulation and unfair trade practices. While unfair business practices may provide a quick benefit to some, this is not the best practice for the future of our association.**

**Article 7.** In accepting the auction of real or personal property, the member pledges himself to be fair to both seller and buyer, and to protect the owner's interest as he would his own.

**Fairness cannot be accomplished by befuddling the payment process with a BP. We ought to treat others as we would have them treat us in a similar predicament. The concepts of *befuddlement* and *fiduciary* are mutually exclusive.**

**Article 10.** It is the duty of every member to protect the public against fraud, misrepresentation or unethical practices in connection with the auction, disposal or liquidation of any real or personal property the Auctioneer is upon to disclose of at public auction.

**Protecting the public against fraud, misrepresentation or unethical practices cannot be done when the Auctioneer uses a BP. It is at least trickery, if not outright unfair. One may argue that the BP is NOT per se a fraud, misrepresentation, unethical, and overreaching. However, in almost all of its uses, it is an unfair business practice.**

**Article 11.** It is the duty of a member to ascertain all pertinent facts concerning every auction for which he is engaged, so that in offering he may avoid error, exaggeration and misrepresentation.

**I believe the Auctioneer community has ascertained all pertinent facts regarding the BP. An Auctioneer would not use the BP if he did not understand it. However, when the Auctioneer befuddles the payment scheme he is inducing error, exaggerating, misrepresenting, and again he is engaging in an unfair business practice.**

Limitation on the use of the auction chant has nothing to do with one's fiduciary duty with his client and the client's property. Nor has it anything to do with commitment to one's profession, or TAA's focus to protect the rights of any Auctioneer, or to enhance any Auctioneer's ability to learn and grow professionally, or protecting the future of the profession. Growing one's profession and supporting one's trade association should not involve promoting unfair trade practices. Certainly no professional has the right to finagle regulations and practices that affect others, and competitors, in an unfair way.

The auction chant is not a thing you can purchase, any more the ability to sing, or kick a football. It is an ability that one must develop. A person has as much right to use the auction chant for a fee, as does a person playing the piano, yodeling, or telling a story. The auction chant (an ability) is commerce. It is livelihood for many people. Individuals have the God given right to sing, hum, yodel, play music, practice the auction chant, etc. They should be able to contract for payment like any other performer.

By having exclusive use of the auction chant, the Auctioneer has **economic power that is not linked to supply and demand**. This is a market power that exist due to a flaw in the market system, and the flaw has been created or at least fostered by the TAA' lobbyist and TAA's PAC. When any regulation, device, or practice gives a (1) competitive advantage to its proponent, (2) while creating a victim one, (3) that has no recourse, one must consider the motive of the proponent. Texas acts as though it is a **market participant**, and some members of the TAA act as though Texas Auctioneers comprise a **public cartel**. We should not assume that Texas is a market participant (no matter how Texas and the TAA's lobbyist behave), nor especially that Texas's sovereignty shield will protect Texas Auctioneers from legal actions under antitrust laws.

We should NOT support a political action committee (PAC) that promotes anticompetitive behavior. We should quit paying TAA's lobbyist to promote anticompetitive behavior. This pertains both to restricting the use of the auction chant and using a BP. The objectives of the TAA PAC and TAA's lobbyist should be revamped considerably.

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